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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/977,664

10/15/2001

Robert D. Herpst

3468

26009

7590

01/13/2009

ROGER M. RATHBUN

13 MARGARITA COURT

HILTON HEAD ISLAND, SC 29926

EXAMINER

ALEXANDER, LYLE

ART UNIT

PAPER NUMBER

1797

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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09977664	10/15/01	HERPST, ROBERT D.	

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## EXAMINER

Lyle A. Alexander

ART UNIT	PAPER
1797	20090113

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## Commissioner for Patents

Upon review of the prosecution history, the 11/23/07 Final rejection contained a typographical error. The Office inadvertently did not include the 35 USC 103 rejection of claim 45 over Gagnon et al. in view of Eden et al., further in view of Applicants' admitted prior art or Izumi together further in view of Marker et al. The aforementioned rejection of claim 45 was made in the 6/29/07 non-final rejection and it was the intent of the Office to also include this rejection in the 11/23/07 final rejection. The Office included the aforementioned rejection in the 12/5/08 Examiner's Answer.

In Appellant's 9/18/08 Appeal Brief, the aforementioned rejection of claim 45 was presented as one of the grounds of rejections to be reviewed upon appeal and argued by Appellant. Appellant did not note the lack of a rejection of claim 45 after the final rejection or in the Appeal Brief. The Office does not believe there has been any harm to Appellant by the aforementioned typographical error because the rejection of claimed 45 is fully addressed in the Appeal Brief and the Examiner's Answer and is ready for consideration by the BPAT.

/Lyle A Alexander/  
Primary Examiner, Art Unit 1797